

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Petitioner-Appellee,

v

CHAD MICHAEL MOORE,

Respondent-Appellant.

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UNPUBLISHED

March 8, 2005

No. 257118

Midland Circuit Court

LC No. 99-000179-DL

Before: Hoekstra, P.J., and Cavanagh and Borrello, JJ.

PER CURIAM.

Respondent, a juvenile, was charged in a delinquency petition with ten counts of breaking and entering a building with intent to commit larceny, MCL 750.110, one count of unlawfully driving away an automobile, MCL 750.413, and three counts of larceny from a motor vehicle, MCL 750.356a(1). He appeals as of right from a family court decision waiving jurisdiction over him so that he can be tried as an adult in a court of general criminal jurisdiction. We affirm.

Respondent argues that the trial court's findings with regard to two of the statutory criteria governing a waiver decision, MCL 712A.4(4)(d) (the juvenile's programming history and willingness to participate meaningfully in available programming) and (e) (adequacy of punishment available in the juvenile system), are clearly erroneous. Respondent asserts that the court made its decision without substantial evidence or adequate investigation of these matters.

Although respondent relies on *People v Dunbar*, 423 Mich 380; 377 NW2d 262 (1985), for the standard governing review of the trial court's waiver decision, *Dunbar* was decided under an earlier version of the statute. At the time *Dunbar* was decided, the statute required a trial court to consider five criteria in determining whether the "interests of the child and the public would be served best by granting a waiver." *Id.* at 385. Also, pursuant to a former court rule, the trial court was required to conduct a full investigation into these interests. *People v Hana*, 443 Mich 202, 223; 504 NW2d 166 (1993). Additionally, no single criterion was to be given preeminence over the others. *In re LeBlanc*, 171 Mich App 405, 411; 430 NW2d 780 (1988). The Legislature subsequently modified the criteria to be considered when deciding whether jurisdiction over a juvenile should be waived, as well as the weight given to each. *People v Whitfield (After Remand)*, 228 Mich App 659, 661-662; 579 NW2d 465 (1998). The latest amendment, 1996 PA 265, effective January 1, 1997, requires the trial court to consider six criteria, "giving greater weight to the seriousness of the alleged offense and the juvenile's prior record of delinquency than to the other criteria." MCL 712A.4(4); see, also, MCR

3.950(D)(3)(d). The “prosecuting attorney has the burden of establishing by a preponderance of the evidence that the best interests of the juvenile and the public would be served by waiver.” MCR 3.950(D)(2)(c). We review the trial court’s findings of fact under the clearly erroneous standard. MCR 3.902(A) and MCR 2.613(A).

Here, with regard to MCL 712A.4(4)(d) and (e), the trial court heard testimony and received the report of Timothy Horonzy, a juvenile probation officer for the Midland Circuit Court, regarding his investigation into respondent’s family history, lengthy juvenile history, current probation status in Isabella County, and punishment and programming options in the adult and juvenile systems. The court also received the report of Randall Christensen, who conducted a psychological evaluation of respondent, and heard testimony from Richard Rellinger, a juvenile justice specialist with the Family Independence Agency, regarding the possibility of respondent being placed in a medium or high security juvenile program. To the extent that respondent claims that Rellinger harbored a misconception of the law by expressing a belief that he could not complete the program because he was seventeen years old, this claim is not properly before us because it lacks citation to supporting authority. See *People v Kelly*, 231 Mich App 627, 640-641; 588 NW2d 480 (1998). In passing, we note that respondent’s charged offenses are not designated offenses for which a trial court may retain jurisdiction over a juvenile until the age of twenty-one. MCL 712A.2a(2).

Respondent has not established that the trial court clearly erred in finding that a juvenile facility would be an ineffective programming option for respondent, and that its dispositional options were de minimus in light of respondent’s behavior and failure to benefit from previous treatment efforts during his lengthy juvenile history. MCR 2.613(C). Hence, we uphold the trial court’s findings with regard to MCL 712A.4(4)(e) and (f). Respondent does not challenge the trial court’s findings regarding the other statutory criteria. Given the Legislature’s mandate that greater weight must be given to the seriousness of the alleged offenses and respondent’s prior juvenile record, we find no basis for disturbing the trial court’s waiver decision.

Affirmed.

/s/ Joel P. Hoekstra  
/s/ Mark J. Cavanagh  
/s/ Stephen L. Borrello